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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/418,536 10/14/99 POWERS

D 10981567-1

EXAMINER

QM12/0327

IP ADMINISTRATION
LEGAL DEPARTMENT 20BN
HEWLETT PACKARD COMPANY
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GROPEZA, F
ART UNIT PAPER NUMBER

3762
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2

03/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/418,536

Applicant(s)

POWERS ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8, 10, 11, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10 and 11, "the replaying step" lacks antecedent basis.

In claim 16, "the replaying option" lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-3, 5-9, 17-19, 22, 25, and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Post (US 5683423). Post discloses a defibrillator with voice recording capability. This defibrillator (10) includes an ECG monitor (24), a display (26), an audio

recording and playback unit (38), a microphone (40), a speaker (42), a memory (30), and an event marker (28). A treatment review or "code" summary (a periodic, pre-selected or continuous data summary (column 3, lines 28-45)) conveys the visual data using a thermal printer (visual image generator) (32) which is activated by depressing a review button (34). A review of the accompanying audio data is also available (column 4, lines 8-21).

4. Claims 1-12, 14, 17, 19-28 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rockwell et al. (US 6141584). Rockwell et al. disclose a defibrillator and communication system including a defibrillator (10), a display (22) for text and ECG waveforms, a shock button (24), a memory (218), an ECG strip (132), a voice strip with microphone (133), event markers (134, 136, and 138) and an event summary (130). Two visual image generators are included in the different embodiments, a display and a printer. Rockwell et al. disclose a series of defibrillators with increasingly complex capabilities. Depending on the defibrillator in use (column 7, lines 5-20), an event summary may be transferred wirelessly for optical viewing and print out (column 8, lines 27-51), or may be printed by pushing a button enabling incident review at any point in the rescue process (column 9, lines 27-49). The event summary can be generated automatically at handoff (column 9, lines 36-38 and column 12, lines 12-16). Audio recording and replay is also disclosed (column 9, lines 32-36 and column 10, lines 1-9) which can be used with the visual data record. The event markers, which include selected event times such as shocks and drug administration, enable selective review of the visual and audio data (column 10, lines 10-29 and lines 57-64). The use of an LCD and soft keys is disclosed (column 12, line 4-10). The memory is disclosed as on-board RAM, a memory card, or a combination of different memory technologies (column 11, lines 9-16). An AED and an ACLS personality are disclosed

(column 12, lines 55 - column 13, line 41) allowing numerous design options based on the situation and the skill of the rescuer. Provision is made for creating specific text or legends on the display; conveying that the defibrillator is in the event review mode is an inherently understood text option ((column 7, lines 28-30) and (column 12, lines 30-36 and lines 53-54)).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (US 6141584) in view of Powers et al. (US 5879374). As discussed in paragraph 4 of this action, Rockwell et al. discloses the claimed invention except for:

- activation of the incident review mode in response to insertion of the battery, and
- offering the replay option when the defibrillator is turned off or when the battery is inserted.

Powers et al. disclose an external defibrillator with automatic self-testing prior to use.

Powers et al. teach that it is known to use the insertion of a battery as the trigger to automatically generate a test signal. The test signal initiates a plurality of preset self-tests or activities within the defibrillator (column 2 line 57 – column 3, line 10). It is an obvious design choice that the insertion of the battery could also activate the incident review mode and/or initiate an offer to replay the recorded data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Rockwell et al., with the battery insertion triggers (activating the incident review mode and replaying the stored data) discussed above as taught by Powers et al.. One have ordinary skill in the art would have been motivated to make such a modification in defibrillator to gain quicker access to the incident review mode and/or the stored data.

Powers et al. teach that it is known use a gate array as a system monitor in the scenario of low power. Low power is viewed as equivalent to an impending system shutdown, hence it is an obvious design choice to have the ASIC (application specific integrated circuit) perform various tasks at the low power or shutdown point including offering to replay the stored data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Rockwell et al., with the offer to replay the stored data at shutdown as taught by Powers et al.. One have ordinary skill in the art would have been motivated to make such a modification in defibrillator to keep the rescue personnel advised of the events to date in the rescue operation.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (US 6141584) in view of Brown (US 5345552). As discussed in paragraph 4 of this action,

Rockwell et al. discloses the claimed invention except for displaying current data and data from memory at the same time and on the screen. Brown discloses a controller for video display and teaches that it is known to display multiple ECG signals, both real time and delayed, on the same screen (column 1, lines 9-19). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Rockwell et al., with display of the real time ECG signal and the ECG signal from memory as taught by Brown. One have ordinary skill in the art would have been motivated to make such a modification in defibrillator to have the information needed to provide optimum patient care.

Other Prior Art Cited

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Us 5785043 to Cyrus et al. teaches medical event reporting. US 5549115 to Morgan et al. teaches data gathering system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

Art Unit: 3762

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO


JEFFREY R. JASTRZAB
PRIMARY EXAMINER

3762

3/16/01